

DETAILED ACTION

This office action follows a request for continued examination (RCE) under 37 § C.F.R. 1.114, filed on July 14, 2008. Claims 1-3, 13, and 14 are pending.

Claim Objections

1. Claim 1 is objected to because of the following informalities: The term “saturated or unsaturated,” used to define R (page 2, line 11), R² (page 2, line 18), R³ and R⁴ (page 3, line 2), R⁵ and R⁶ (page 3, line 9), and R⁹ (page 3, line 19), is superfluous and may be removed from the claim. Appropriate corrections are required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-3, 13, and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is drawn to a process for making polymer in presence of a catalyst derived from a metallocene of formula (I). In the formula, ancillary ligand X, which is necessarily monovalent, has been defined as OR'O, which is a divalent substituent.

Claim 3 also recites metallocene (I) in which ligand X is a divalent OR'O group.

Due to this inconsistency, claims are rendered indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Dependent claims 2, 13, and 14 are subsumed under the rejection.

Response to Arguments

4. Applicant's traverse the rejection of claims over Bingel *et al.* (WO 98/40331; equivalent U.S. 6,492,539 relied upon for indexing) in view of Galimberti *et al.* (U.S. 5,565,533), and the rejection of claims over Bingel *et al.* in view of Resconi *et al.* (U.S. 5,585,448), set forth in paragraphs 2 and 3 of the final office action dated February 20, 2008. Applicant's arguments filed have been considered fully, and upon reconsideration of the disclosure of Bingel *et al.*, both rejections have been withdrawn. Bingel *et al.* relates to a general method for making a series of variously substituted metallocenes, including those of type $\text{Me}_2\text{Si}(2\text{-R-4-(}t\text{-BuPh)Ind})_2\text{ZrCl}_2$. The disclosure points to preparation of supported catalysts (col. 60, lines 48 - col. 62, line 44). In contrast, the process of the instant claims makes use of a non-supported catalyst. Thus, the rejections which use Bingel *et al.* as the primary references are untenable.

Instant claims are free of the prior art. The only remaining issues are claim objections to correct matters of form and the claim rejection under 35 U.S.C. 112, 2nd paragraph. An interview was held September 24, 2008 to resolve the above remaining issues, but a resolution could not be reached.

Art Unit: 1796

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rip A. Lee whose telephone number is (571)272-1104. The examiner can be reached on Monday through Friday from 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu S. Jagannathan, can be reached at (571)272-1119. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

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/Rip A. Lee/
Art Unit 1796

September 25, 2008